

## **1-45-102. Legislative declaration**

The people of the state of Colorado hereby find and declare that large campaign contributions to political candidates allow wealthy contributors and special interest groups to exercise a disproportionate level of influence over the political process; that large campaign contributions create the potential for corruption and the appearance of corruption; that the rising costs of campaigning for political office prevent qualified citizens from running for political office; and that the interests of the public are best served by limiting campaign contributions, establishing campaign spending limits, full and timely disclosure of campaign contributions, and strong enforcement of campaign laws.

## **1-45-103. Definitions**

As used in this article, unless the context otherwise requires:

(1) "Appropriate officer" shall have the same meaning as set forth in section 2 (1) of article XXVIII of the state constitution.

(1.3) "Ballot issue" shall have the same meaning as set forth in section 1-1-104 (2.3); except that, for purposes of section 1-45-117, "ballot issue" shall mean both a ballot issue as defined in this subsection (1.3) and a ballot question.

(1.5) "Ballot question" shall have the same meaning as set forth in section 1-1-104 (2.7).

(2) "Candidate" shall have the same meaning as set forth in section 2 (2) of article XXVIII of the state constitution.

(3) "Candidate committee" shall have the same meaning as set forth in section 2 (3) of article XXVIII of the state constitution.

(4) "Candidate committee account" shall mean the account established by a candidate committee with a financial institution pursuant to section 3 (9) of article XXVIII of the state constitution.

(5) "Conduit" shall have the same meaning as set forth in section 2 (4) of article XXVIII of the state constitution.

(6) (a) "Contribution" shall have the same meaning as set forth in section 2 (5) of article XXVIII of the state constitution.

(b) "Contribution" includes, with regard to a contribution for which the contributor receives compensation or consideration of less than equivalent value to such contribution, including, but not limited to, items of perishable or nonpermanent value, goods, supplies, services, or participation in a campaign-related event, an amount equal to the value in excess of such compensation or consideration as determined by the candidate committee.

(c) "Contribution" also includes:

(I) Any payment, loan, pledge, gift, advance of money, or guarantee of a loan made to any political organization;

(II) Any payment made to a third party on behalf of and with the knowledge of the political organization; or

(III) The fair market value of any gift or loan of property made to any political organization.

(7) "Corporation" means a domestic corporation incorporated under and subject to the "Colorado Business Corporation Act", articles 101 to 117 of title 7, C.R.S., a domestic nonprofit corporation incorporated under and subject to the "Colorado Revised Nonprofit Corporation Act", articles 121 to 137 of title 7, C.R.S., or any corporation incorporated under and subject to the laws of another state. For purposes of this article, "domestic corporation" shall mean a for-profit or nonprofit corporation incorporated under and subject to the laws of this state, and "nondomestic corporation" shall mean a corporation incorporated under and subject to the laws of another state or foreign country. For purposes of this article, "corporation" includes the parent of a subsidiary corporation or any subsidiaries of the parent, as applicable.

(7.3) (a) "Donation" means:

(I) The payment, loan, pledge, gift, or advance of money, or the guarantee of a loan, made to any person for the purpose of making an independent expenditure;

(II) Any payment made to a third party that relates to, and is made for the benefit of, any person that makes an independent expenditure;

(III) The fair market value of any gift or loan of property that is given to any person for the purpose of making an independent expenditure; or

(IV) Anything of value given, directly or indirectly, to any person for the purpose of making an independent expenditure.

(b) "Donation" shall not include a transfer by a membership organization of a portion of a member's dues for an independent expenditure sponsored by such membership organization.

(7.5) "Earmark" means a designation, instruction, or encumbrance that directs the transmission by the recipient of all or part of a donation to a third party for the purpose of making one or more independent expenditures in excess of one thousand dollars.

(8) "Election cycle" shall have the same meaning as set forth in section 2 (6) of article XXVIII of the state constitution.

(9) "Electioneering communication" shall have the same meaning as set forth in section 2 (7) of article XXVIII of the state constitution.

(10) "Expenditure" shall have the same meaning as set forth in section 2 (8) of article XXVIII of the state constitution.

(10.5) "Foreign corporation" means:

(a) A parent corporation or the subsidiary of a parent corporation formed under the laws of a foreign country that is functionally equivalent to a domestic corporation;

(b) A parent corporation or the subsidiary of a parent corporation in which one or more foreign persons hold a combined ownership interest that exceeds fifty percent;

(c) A parent corporation or the subsidiary of a parent corporation in which one or more foreign persons hold a majority of the positions on the corporation's board of directors; or

(d) A parent corporation or the subsidiary of a parent corporation whose United States-based operations, or whose decision-making with respect to political activities, falls under the direction or control of a foreign entity, including the government of a foreign country.

(11) "Independent expenditure" shall have the same meaning as set forth in section 2 (9) of article XXVIII of the state constitution.

(11.5) "Independent expenditure committee" means one or more persons that make an independent expenditure in an aggregate amount in excess of one thousand dollars or that collect in excess of one thousand dollars from one or more persons for the purpose of making an independent expenditure.

(12) (a) "Issue committee" shall have the same meaning as set forth in section 2 (10) of article XXVIII of the state constitution.

(b) For purposes of section 2 (10)(a)(I) of article XXVIII of the state constitution, "major purpose" means support of or opposition to a ballot issue or ballot question that is reflected by:

(I) An organization's specifically identified objectives in its organizational documents at the time it is established or as such documents are later amended; or

(II) An organization's demonstrated pattern of conduct based upon its:

(A) Annual expenditures in support of or opposition to a ballot issue or ballot question; or

(B) Production or funding, or both, of written or broadcast communications, or both, in support of or opposition to a ballot issue or ballot question.

(c) The provisions of paragraph (b) of this subsection (12) are intended to clarify, based on the decision of the Colorado court of appeals in *Independence Institute v. Coffman*, 209 P.3d 1130 (Colo. App. 2008), cert. denied, --- U.S. ---, 130 S. Ct. 165, 175 L. Ed. 479 (2009), section 2 (10)(a)(I) of article XXVIII of the state constitution and not to make a substantive change to said section 2 (10)(a)(I).

(12.5) "Media outlet" means a publication or broadcast medium that transmits news, feature stories, entertainment, or other information to the public through various

distribution channels, including, without limitation, newspapers; magazines; radio; and broadcast, cable, or satellite television.

(12.7) "Obligating" means, in connection with a named candidate, agreeing to spend in excess of one thousand dollars for an independent expenditure or to give, pledge, loan, or purchase one or more goods, services, or other things of value that have a fair market value in excess of one thousand dollars as an independent expenditure. "Obligating" shall not require that the total amount in excess of one thousand dollars be finally determined at the time of the agreement to spend moneys for an independent expenditure or to give, pledge, loan, or purchase anything of value.

(13) "Person" shall have the same meaning as set forth in section 2 (11) of article XXVIII of the state constitution.

(14) "Political committee" shall have the same meaning as set forth in section 2 (12) of article XXVIII of the state constitution.

(14.5) "Political organization" means a political organization defined in section 527 (e)(1) of the federal "Internal Revenue Code of 1986", as amended, that is engaged in influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any state or local public office in the state and that is exempt, or intends to seek any exemption, from taxation pursuant to section 527 of the internal revenue code. "Political organization" shall not be construed to have the same meaning as "political organization" as defined in section 1-1-104 (24) for purposes of the "Uniform Election Code of 1992", articles 1 to 13 of this title.

(15) "Political party" shall have the same meaning as set forth in section 2 (13) of article XXVIII of the state constitution.

(15.3) "Regular biennial school election" means the election that is described in section 22-31-104 (1), C.R.S.

(15.5) "Regular biennial school electioneering communication" has the same meaning as "electioneering communication" as defined in section 2 (7) of article XXVIII of the state constitution; except that, for purpose of the definition of regular biennial school electioneering communication only, "candidate" as referenced in section 2 (7)(a)(I) of said article means a candidate in a regular biennial school election and the requirements specified in section 2 (7)(a)(II) mean a communication that is broadcast, printed, mailed, delivered, or distributed within sixty days before a regular biennial school election. Except as otherwise specified in this subsection (15.5), the definition of "regular biennial school electioneering communication" is the same as that of "electioneering communication".

(16) "Small donor committee" shall have the same meaning as set forth in section 2 (14) of article XXVIII of the state constitution.

(16.3) (a) "Small-scale issue committee" means an issue committee that has accepted or made contributions or expenditures in an amount that does not exceed five thousand dollars during an applicable election cycle for the major purpose of supporting or opposing any ballot issue or ballot question.

(b) The following are treated as a single small-scale issue committee:

(I) All small-scale issue committees that support or oppose a common ballot measure if the committees are established, financed, maintained, or controlled by a single corporation or its subsidiaries;

(II) All small-scale issue committees that support or oppose a common ballot measure if the committees are established, financed, maintained, or controlled by a single labor organization or the affiliated local units it directs; or

(III) All small-scale issue committees that support or oppose a common ballot measure if the committees are established, financed, maintained, or controlled by substantially the same person, group of persons, or other organizations.

(c) This subsection (16.3) is repealed, effective June 30, 2019.

(16.5) "Spending" means funds expended influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any state or local public office in the state and includes, without limitation, any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value by any political organization, a contract, promise, or agreement to expend funds made or entered into by any political organization, or any electioneering communication by any political organization.

(17) "Subsidiary" means a business entity having more than half of its stock owned by another entity or person, or a business entity of which a majority interest is controlled by another person or entity.

(18) "Unexpended campaign contributions" shall have the same meaning as set forth in section 2 (15) of article XXVIII of the state constitution.

**1-45-103.7. Contribution limits - treatment of independent expenditure committees - contributions from limited liability companies - voter instructions on spending limits - definitions**

(1) Nothing in article XXVIII of the state constitution or this article shall be construed to prohibit a corporation or labor organization from making a contribution to a political committee.

(2) A political committee may receive and accept moneys contributed to such committee by a corporation or labor organization pursuant to subsection (1) of this section for disbursement to a candidate committee or political party without depositing such moneys in an account separate from the account required to be established for the receipt and acceptance of all contributions by all committees or political parties in accordance with section 3 (9) of article XXVIII of the state constitution.

(2.5) An independent expenditure committee shall not be treated as a political committee and, therefore, shall not be subject to the requirements of section 3 (5) of article XXVIII of

the state constitution.

(3) A candidate committee established in the name of a candidate affiliated with either a major political party or a minor political party who is running in a primary election may accept:

(a) The aggregate contribution limit specified in section 3 (1) of article XXVIII of the state constitution for a primary election at any time after the date of the primary election in which the candidate in whose name the candidate committee is accepting contributions is on the primary election ballot; or

(b) The aggregate contribution limit specified in section 3 (1) of article XXVIII of the state constitution for a general election at any time prior to the date of the primary election in which the candidate in whose name the candidate committee is accepting contributions is on the primary election ballot.

(4) A candidate committee established in the name of a candidate affiliated with either a major political party or a minor political party running in a primary election may expend contributions received and accepted for a general election prior to the date of the primary election in which the candidate in whose name the candidate committee is accepting contributions is on the primary election ballot. A candidate committee established in the name of a candidate affiliated with a major political party or a minor political party running in a primary election who wins the primary election may expend contributions received and accepted for a primary election in the general election.

(4.5) (a) A candidate committee established in the name of a candidate who is a write-in candidate, an unaffiliated candidate, or the candidate of a minor political party who is not running in a primary election may accept from any one person the aggregate contribution limit specified in section 3 (1) of article XXVIII of the state constitution applicable to the office he or she is seeking at any point during the election cycle in which the candidate in whose name the candidate committee is accepting contributions is on the general election ballot.

(b) A candidate committee established in the name of a candidate who is a write-in candidate, an unaffiliated candidate, or the candidate of a minor political party who is not running in a primary election may expend contributions received and accepted in accordance with paragraph (a) of this subsection (4.5) at any point during the election cycle in which the candidate in whose name the candidate committee is accepting contributions is on the general election ballot.

(5) (a) No limited liability company shall make any contribution to a candidate committee or political party if one or more of the individual members of the limited liability company is:

(I) A corporation;

(II) A labor organization;

(III) A natural person who is not a citizen of the United States;

(IV) A foreign government;

(V) A professional lobbyist, volunteer lobbyist, or the principal of a professional or volunteer lobbyist, and the contribution is prohibited under section 1-45-105.5 (1); or

(VI) Otherwise prohibited by law from making the contribution.

(b) No limited liability company shall make any contribution to a political committee if one or more of the individual members of the limited liability company is:

(I) An entity formed under and subject to the laws of a foreign country;

(II) A natural person who is not a citizen of the United States; or

(III) A foreign government.

(c) Notwithstanding any other provision of this subsection (5), no limited liability company shall make any contribution to a candidate committee or political party if either the limited liability company has elected to be treated as a corporation by the internal revenue service pursuant to 26 CFR 301.7701-3 or any successor provision or the shares of the limited liability company are publicly traded. A contribution by a limited liability company with a single natural person member that does not elect to be treated as a corporation by the internal revenue service pursuant to 26 CFR 301.7701-3 shall be attributed only to the single natural person member.

(d) (I) Any limited liability company that is authorized to make a contribution shall, in writing, affirm to the candidate committee, political committee, or political party to which it has made a contribution, as applicable, that it is authorized to make a contribution, which affirmation shall also state the names and addresses of all of the individual members of the limited liability company. No candidate committee, political committee, or political party shall accept a contribution from a limited liability company unless the written affirmation satisfying the requirements of this paragraph (d) is provided before the contribution is deposited by the candidate committee, political committee, or political party. The candidate committee, political committee, or political party receiving the contribution shall retain the written affirmation for not less than one year following the date of the end of the election cycle during which the contribution is received.

(II) Any contribution by a limited liability company, and the aggregate amount of contributions from multiple limited liability companies attributed to a single member of any such company under this subparagraph (II), shall be subject to the limits governing such contributions under section 3 of article XXVIII of the state constitution. A limited liability company that makes any contribution to a candidate committee, political committee, or political party shall, at the time it makes the contribution, provide information to the recipient committee or political party as to the amount of the total contribution attributed to each member of the limited liability company. The attribution shall reflect the capital each member of the limited liability company has invested in the company relative to the total amount of capital invested in the company as of the date the company makes the campaign contribution, and for a single member limited liability company, the contribution shall be attributed to that single member. The limited liability company shall then deduct the

amount of the contribution attributed to each of its members from the aggregate contribution limit applicable to multiple limited liability companies under this subparagraph (II) for purposes of ensuring that the aggregate amount of contributions from multiple limited liability companies attributed to a single member does not exceed the contribution limits in section 3 of article XXVIII of the state constitution. Nothing in this subparagraph (II) shall be construed to restrict a natural person from making a contribution in his or her own name to any committee or political party to the extent authorized by law.

(6) No nondomestic corporation may make any contribution under article XXVIII of the state constitution or this article that a domestic corporation is prohibited from making under article XXVIII of the state constitution or this article.

(7) (a) Any person who believes that a violation of subsection (5) or (6) of this section has occurred may file a written complaint with the secretary of state no later than one hundred eighty days after the date of the alleged violation. The complaint shall be subject to all applicable procedures specified in section 9 (2) of article XXVIII of the state constitution.

(b) Any person who has violated any of the provisions of paragraph (a), (b), or (c) of subsection (5) or subsection (6) of this section shall be subject to a civil penalty of at least double and up to five times the amount contributed or received in violation of the applicable provision.

(c) Any person who has violated any of the provisions of subparagraph (I) of paragraph (d) of subsection (5) of this section shall be subject to a civil penalty of fifty dollars per day for each day that the written affirmation regarding the membership of a limited liability company has not been filed with or retained by the candidate committee, political committee, or political party to which a contribution has been made.

(8) As used in this section, "limited liability company" includes any form of domestic entity as defined in section 7-90-102 (13), C.R.S., or foreign entity as defined in section 7-90-102 (23), C.R.S.; except that, as used in this section, "limited liability company" shall not include a domestic corporation, a domestic cooperative, a domestic nonprofit association, a domestic nonprofit corporation, a foreign corporation, a foreign cooperative, a foreign nonprofit association, a foreign nonprofit corporation, as those terms are defined in section 7-90-102, C.R.S., a nondomestic corporation as defined in section 1-45-103 (7), or a foreign corporation as defined in section 1-45-103 (10.5).

(9) (a) The voters instruct the Colorado congressional delegation to propose and support, and the Colorado state legislature to ratify, an amendment to the United States Constitution that allows Congress and the states to limit campaign contributions and spending, to ensure that all citizens, regardless of wealth, can express their views to one another and their government on a level playing field.

(b) The provisions of this subsection shall take effect on January 1, 2013, and be applicable thereafter.

(10) For purposes of this section, the terms "unaffiliated", "major political party", and "minor political party" have the same meanings as specified in the "Uniform Election Code of 1992", articles 1 to 13 of this title.



**1-45-107.5. Independent expenditures - restrictions on foreign corporations - registration - disclosure - disclaimer requirements**

(1) Notwithstanding any other provision of law, no foreign corporation may expend moneys on an independent expenditure in connection with an election in the state.

(2) In accordance with the decision of the supreme court of Colorado in the case of *In re Interrogatories Propounded by Governor Bill Ritter, Jr., Concerning the Effect of Citizens United v. Federal Election Comm'n*, 558 U.S. --- (2010), on Certain Provisions of Article XXVIII of the Constitution of the State of Colorado, 227 P.3d 892 (Colo. 2010), notwithstanding sections 3 (4)(a) and 6 (2) of article XXVIII of the state constitution, corporations and labor organizations shall not be prohibited from making independent expenditures. All such expenditures shall be disclosed in accordance with the requirements of this article and article XXVIII of the state constitution. For purposes of this article and article XXVIII of the state constitution, any use of the word "person" shall be construed to include, without limitation, any corporation or labor organization.

(3) (a) Any person that accepts a donation that is given for the purpose of making an independent expenditure in excess of one thousand dollars or that makes an independent expenditure in excess of one thousand dollars shall register with the appropriate officer within two business days of the date on which an aggregate amount of donations accepted or expenditures made reaches or exceeds one thousand dollars.

(b) The registration required by paragraph (a) of this subsection (3) shall include a statement listing:

(I) The person's full name, spelling out any acronyms used therein;

(II) A natural person authorized to act as a registered agent;

(III) A street address and telephone number for the principal place of operations; and

(IV) The aggregate ownership interest in the person held by foreign persons calculated as of the time the person registers with the appropriate officer under paragraph (a) of this subsection (3).

(c) If the person identified in subparagraph (I) of paragraph (b) of this subsection (3) is a corporation, a subsidiary may register on behalf of its parent corporation or for other subsidiaries of the parent corporation, and the parent corporation may register on behalf of all of its subsidiaries. In each such case, the registered agent of the person registering shall serve as the registered agent for all such affiliated corporations. Registration of a subsidiary shall include the name of its parent corporation as well as any names under which the subsidiary does business.

(d) If the person identified in subparagraph (I) of paragraph (b) of this subsection (3) is a labor organization, a local labor organization may register on behalf of any affiliated local, national, or international labor organization that will be making independent expenditures, and a national or international labor organization may register on behalf of any affiliated local labor organization that will be making independent expenditures. In each such case,

the registered agent of the labor organization that is registering shall serve as the registered agent for each affiliated local, national, or international labor organization.

(4) (a) In addition to any other applicable disclosure requirements specified in this article or in article XXVIII of the state constitution, any person making an independent expenditure in an aggregate amount in excess of one thousand dollars in any one calendar year shall report the following to the appropriate officer:

(I) The person's full name, or, if the person is a subsidiary of a parent corporation, the full name of the parent corporation, spelling out any acronyms used therein;

(II) All names under which the person does business in the state if such names are different from the name identified pursuant to subparagraph (I) of this paragraph (a);

(III) The address of the home office of the person, or, if the person is a subsidiary of a parent corporation, the home office of the parent corporation; and

(IV) The name and street address in the state of its registered agent.

(b) (I) Any person who expends an aggregate amount in excess of one thousand dollars or more per calendar year for the purpose of making an independent expenditure shall report to the appropriate officer, in accordance with the requirements of this section, the name and address of any person that, for the purpose of making an independent expenditure, donates more than two hundred fifty dollars per year to the person expending one thousand dollars or more on an independent expenditure.

(II) If the person making the donation of two hundred fifty dollars or more is a natural person, the disclosure required by subparagraph (I) of this paragraph (b) shall also include the donor's occupation and employer.

(III) If the person making the donation of two hundred fifty dollars or more is not a natural person, the disclosure required by this paragraph (b) shall also include:

(A) The donor's full name, or, if the donor is a subsidiary of a parent corporation, the full name of the parent corporation, spelling out any acronyms used therein;

(B) All names under which the donor does business in the state if such names are different from the name identified pursuant to subparagraph (I) of this paragraph (b);

(C) The address of the home office of the donor, or, if the donor is a subsidiary of a parent corporation, the home office of the parent corporation; and

(D) The name and street address in the state of the donor's registered agent.

(c) The information required to be disclosed pursuant to paragraph (a) of this subsection (4) must be reported in accordance with the schedule specified in section 1-45-108 (2) for political committees; except that any person making an independent expenditure in excess of one thousand dollars within thirty days before a primary, general, or regular biennial school election shall provide such report within forty-eight hours after obligating moneys for

the independent expenditure.

(5) (a) In addition to any other applicable requirements provided by law, and subject to the provisions of this section, any communication that is broadcast, printed, mailed, delivered, or otherwise circulated that constitutes an independent expenditure for which the person making the independent expenditure expends in excess of one thousand dollars on the communication shall include in the communication a statement that:

(I) The communication has been "paid for by (full name of the person paying for the communication)"; and

(II) Identifies a natural person who is the registered agent if the person identified in subparagraph (I) of this paragraph (a) is not a natural person.

(b) In the case of a broadcast communication, the statement required by paragraph (a) of this subsection (5) shall satisfy all applicable requirements promulgated by the federal communications commission for size, duration, and placement.

(c) In the case of a nonbroadcast communication, the secretary of state shall, by rule, establish size and placement requirements for the disclaimer.

(6) Any person that expends an aggregate amount in excess of one thousand dollars on an independent expenditure in any one calendar year shall deliver written notice to the appropriate officer that shall list with specificity the name of the candidate whom the independent expenditure is intended to support or oppose. Where the independent expenditure is made within thirty days before a primary, general, or regular biennial school election, the notice required by this subsection (6) must be delivered within forty-eight hours after the person obligates moneys for the independent expenditure.

(7) Any person that accepts any donation that is given for the purpose of making an independent expenditure or expends any moneys on an independent expenditure in an aggregate amount in excess of one thousand dollars in any one calendar year shall establish a separate account in a financial institution, and the title of the account shall indicate that it is used for such purposes. All such donations accepted by such person for the making of any such independent expenditures shall only be deposited into the account, and any moneys expended for the making of such independent expenditure shall only be withdrawn from the account. As long as the person uses a separate account for the purposes of this subsection (7), in any complaint relating to the use of the person's account, no discovery may be made of information relating to the identity of the person's members and general donors and any discovery is limited to the sources, amounts, and uses of donations deposited into and expenditures withdrawn from the account.

(8) Any person that expends moneys on an independent expenditure in excess of one thousand dollars, regardless of the medium of the communication produced by the expenditure, shall disclose to the secretary of state, in accordance with the schedule specified in section 1-45-108 (2) for political committees, any donation in excess of twenty dollars given in that reporting period for the purpose of making an independent expenditure.

(9) (a) Any person that donates one thousand dollars or more to any person during any one

calendar year for the purpose of making an independent expenditure shall report the donation in accordance with the schedule specified in section 1-45-108 (2) for political committees; except that no report is required for any reporting period in which no donation is made.

(b) On an annual basis, the secretary of state shall forward to the department of revenue a summary of the donation reports filed under paragraph (a) of this subsection (9) during the preceding calendar year, and the department shall use such information to ensure that no independent expenditure committee or person, or donor to such committee or person that has filed a report under paragraph (a) of this subsection (9), has deducted any amounts paid for the purpose of making one or more independent expenditures in establishing such committee's, person's, or donor's state income tax liability. The department may use its audit and enforcement authority under section 24-35-108, C.R.S., to ensure the collection of unpaid or delinquent taxes owed by independent expenditure committees, persons that have paid for independent expenditures, or donors to such committees or persons that have filed a report under paragraph (a) of this subsection (9).

(10) Any earmarked donation given for the purpose of making an independent expenditure in excess of one thousand dollars shall be disclosed as a donation from both the original source of the donation and the person transferring the donation.

(11) On reports it files with the appropriate official, an independent expenditure committee that obligates in excess of one thousand dollars for an independent expenditure shall disclose a good faith estimate of the fair market value of the expenditure if the committee does not know the actual amount of the expenditure as of the date that a report is required to be filed with the appropriate official.

(12) All information required to be disclosed to the secretary of state under this section shall be posted on the website of the secretary within two business days after its receipt by the secretary.

(13) Notwithstanding any other provision of this section, any requirement contained in this section that is applicable to a corporation shall also be applicable to a labor organization.

### **1-45-108. Disclosure**

(1) (a) (I) Subject to subsection (1.5) of this section, all candidate committees, political committees, issue committees, small donor committees, and political parties shall report to the appropriate officer their contributions received, including the name and address of each person who has contributed twenty dollars or more; expenditures made, and obligations entered into by the committee or party.

(II) Subject to subsection (1.5) of this section, in the case of contributions made to a candidate committee, political committee, issue committee, and political party, the disclosure required by this section shall also include the occupation and employer of each person who has made a contribution of one hundred dollars or more to such committee or party.

(III) Any person who expends one thousand dollars or more per calendar year on electioneering communications or regular biennial school electioneering communications shall report to the secretary of state, in accordance with the disclosure required by this section, the amount expended on the communications and the name and address of any person that contributes more than two hundred fifty dollars per year to the person expending one thousand dollars or more on the communications. If the person making a contribution of more than two hundred fifty dollars is a natural person, the disclosure required by this section must also include the person's occupation and employer.

(IV) In the case of a limited liability company, the disclosure required by this section shall include, in addition to any other information required to be disclosed, each contribution from the limited liability company regardless of the dollar amount of the contribution.

(b) (Deleted by amendment, L. 2003, p. 2158, § 3, effective June 3, 2003.)

(c) A candidate committee in a special district election is not required to file reports under this section until the committee has received contributions or made expenditures exceeding two hundred dollars in the aggregate during the election cycle.

(d) For purposes of this section, a political party shall be treated as a separate entity at the state, county, district, and local levels.

(e) A candidate's candidate committee may reimburse the candidate for expenditures the candidate has made on behalf of the candidate committee. Any such expenditures may be reimbursed at any time. Notwithstanding any other provision of law, any expenditure reimbursed to the candidate by the candidate's candidate committee within the election cycle during which the expenditure is made shall be treated only as an expenditure and not as a contribution to and an expenditure by the candidate's candidate committee. Notwithstanding the date on which any such expenditure is reimbursed, the expenditure shall be reported at the time it is made in accordance with the requirements of this section.

(1.5) Notwithstanding any other provision of law, in light of the opinion of the United States court of appeals for the tenth circuit in the case of Coalition for Secular Government v. Williams, No. 14-1469 (10th circuit March 2, 2016), that affirmed the order of the federal district court in the case of Coalition for Secular Gov't v. Gessler, Case No. 12 CV 1708, the disclosure requirements specified in subparagraph (I) or (II) of paragraph (a) of subsection (1) of this section and the reporting requirements specified in subsection (3.3) or (6) of this section shall not apply to a small-scale issue committee. Any small-scale issue committee shall disclose or file reports about the contributions or expenditures it has made or received or otherwise register as an issue committee in connection with accepting or making such contributions or expenditures in accordance with the following alternative requirements:

(a) Any small-scale issue committee that accepts or makes contributions or expenditures in an aggregate amount during any applicable election cycle that does not exceed two hundred dollars is not required to disclose or file reports about the contributions or expenditures it has made or received or otherwise register as an issue committee in connection with accepting or making such contributions or expenditures.

(b) (I) Any small-scale issue committee that accepts or makes contributions or expenditures

in an aggregate amount during any applicable election cycle of between two hundred dollars and five thousand dollars shall register with the appropriate officer within ten business days of the date on which the aggregate amount of contributions or expenditures exceeds two hundred dollars. The registration required by this subparagraph (I) must include a statement listing:

(A) The committee's full name, spelling out any acronyms used in the name;

(B) The name of a natural person authorized to act as a registered agent of the committee;

(C) A street address for the principal place of business of the committee;

(D) The purpose or nature of interest of the committee; and

(E) The name of the financial institution in which, in a separate account bearing the name of the committee, all contributions received by the committee are deposited.

(II) Any small-scale issue committee described in subparagraph (I) of this paragraph (b) is not required to make any disclosure about any contributions or expenditures it has made or received.

(c) (I) At such time as any issue committee that began as a small-scale issue committee accepts or makes contributions or expenditures in an aggregate amount during any applicable election cycle that exceeds five thousand dollars, the committee shall report to the appropriate officer, for each particular contribution or expenditure accepted or made, the name and address of each person who has made such contribution and the amount of each specific contribution and expenditure accepted or made by the committee.

(II) At such time as any issue committee that began as a small-scale issue committee accepts or makes contributions or expenditures in an aggregate amount during any applicable election cycle that exceeds five thousand dollars, the committee shall make disclosure of any contributions or expenditures it accepts or makes on or after the date on which such aggregate amount exceeds five thousand dollars in compliance with all applicable requirements under this article pertaining to the disclosure by an issue committee of its contributions or expenditures accepted or made.

(III) Within fifteen days of a small-scale issue committee becoming subject to the applicable requirements governing an issue committee under this article, the committee through its registered agent, shall report this change in the committee's status to the secretary of state.

(d) This subsection (1.5) is repealed, effective June 30, 2019.

(2) (a) (I) Except as provided in subparagraph (V) of this paragraph (a) and subsections (2.5), (2.7), and (6) of this section, such reports that are required to be filed with the secretary of state must be filed:

(A) Quarterly in off-election years no later than the fifteenth calendar day following the end of the applicable quarter;

(B) On the first Monday in May and on each Monday every two weeks thereafter before the primary election;

(C) On the first day of each month beginning the sixth full month before the major election; except that no monthly report shall be required on the first day of the month in which the major election is held;

(D) On the first Monday in September and on each Monday every two weeks thereafter before the major election;

(E) Thirty days after the major election in election years; and

(F) Fourteen days before and thirty days after a special legislative election held in an off-election year.

(II) Such reports that are required to be filed with the municipal clerk and such reports required to be filed pursuant to section 1-45-109 (1)(a)(II) and (1)(c) shall be filed on the twenty-first day and on the Friday before and thirty days after the primary election, where applicable, and the major election in election years and annually in off-election years on the first day of the month in which the anniversary of the major election occurs.

(III) For purposes of this section, "election year" means every even-numbered year for political parties and political committees and each year in which the particular candidate committee's candidate, or issue committee's issue, appears on the ballot, including a regular biennial school election; and "major election" means the election that decides an issue committee's issue, the election that elects a person to the public office sought by the candidate committee's candidate, and a regular biennial school election.

(IV) If the reporting day falls on a weekend or legal holiday, the report shall be filed by the close of the next business day.

(V) Any political committee, small donor committee, independent expenditure committee, or political organization that is participating in a regular biennial school election shall file its disclosure reports in accordance with the filing schedule specified in sub-subparagraphs (C) to (E) of subparagraph (I) of this paragraph (a) as of the date the committee or organization, as applicable, makes an expenditure or undertakes spending in connection with that election.

(b) The reports required by this section shall also include the balance of funds at the beginning of the reporting period, the total of contributions received, the total of expenditures made during the reporting period, and the name and address of the financial institution used by the committee or party.

(c) All reports filed with the secretary of state pursuant to this subsection (2) shall be for the reporting periods established pursuant to rules promulgated by the secretary of state in accordance with article 4 of title 24, C.R.S.

(d) A candidate committee for a former officeholder or a person not elected to office that

has no change in the balance of funds maintained by such committee, receives no contributions, makes no expenditures, and enters into no obligations during a reporting period shall not be required to file a report under this section for such period.

(e) The reporting period for all reports required to be filed with the municipal clerk and such reports required to be filed pursuant to section 1-45-109 (1)(a)(II) and (1)(c) shall close five calendar days prior to the effective date of filing.

(2.3) Repealed.

(2.5) In addition to any report required to be filed with the secretary of state or municipal clerk under this section, all candidate committees, political committees, issue committees, and political parties shall file a report with the secretary of state of any contribution of one thousand dollars or more at any time within thirty days preceding the date of the primary election, general election, or regular biennial school election. This report shall be filed with the secretary of state no later than twenty-four hours after receipt of said contribution.

(2.7) Any candidate or candidate committee supporting any candidate, including an incumbent, in a recall election, shall file reports of contributions and expenditures with the appropriate officer fourteen and seven days before the recall election and thirty days after the recall election.

(3) Except as otherwise provided in subsection (3.5) of this section, all candidate committees, political committees, small donor committees, and political parties shall register with the appropriate officer before accepting or making any contributions. Registration shall include a statement listing:

(a) The organization's full name, spelling out any acronyms used therein;

(b) A natural person authorized to act as a registered agent;

(c) A street address and telephone number for the principal place of operations;

(d) All affiliated candidates and committees;

(e) The purpose or nature of interest of the committee or party.

(f) (Deleted by amendment, L. 2010, (SB 10-041), ch. 151, p. 522, § 2, effective July 1, 2010.)

(3.3) Subject to subsections (1.5) and (7) of this section, each issue committee shall register with the appropriate officer within ten calendar days of accepting or making contributions or expenditures in excess of two hundred dollars to support or oppose any ballot issue or ballot question or upon receipt of the notice from the secretary of state pursuant to section 1-40-113 (1)(b). If required to register under the requirements of this subsection (3.3), the registration of the issue committee must include a statement containing the items listed in paragraphs (a) to (e) of subsection (3) of this section in connection with other committees and a political party.



(3.5) Any political committee that has registered with the federal election commission may file with the appropriate officer a copy of the registration filed with the federal election commission and, insofar as such registration contains substantially the same information required by subsection (3) of this section, the political committee shall be considered to have registered with the appropriate officer for purposes of subsection (3) of this section and, therefore, shall be authorized to accept or make contributions as permitted by law. Any political committee that satisfies the requirements of this subsection (3.5) shall be subject to all other legal requirements pertaining to contributions and disclosure that are applicable to political committees.

(4) (Deleted by amendment, L. 2010, (SB 10-041), ch. 151, p. 522, § 2, effective July 1, 2010.)

(5) The registration and reporting requirements of this section shall not apply to that part of the organizational structure of a political party which is responsible for only the day-to-day operations of such political party at the national level if copies of the reports required to be filed with the Federal Election Commission pursuant to the "Federal Election Commission Act of 1971", as amended, are filed with the secretary of state and include the information required by this section.

(6) Subject to subsection (1.5) of this section, any issue committee whose purpose is the recall of any elected official shall register with the appropriate officer within ten calendar days of accepting or making contributions or expenditures in excess of two hundred dollars to support or oppose the recall. Reports of contributions and expenditures shall be filed with the appropriate officer within fifteen days of the filing of the committee registration and every thirty days thereafter until the date of the recall election has been established and then fourteen days and seven days before the recall election and thirty days following the recall election.

(7) (a) Notwithstanding any other provision of law, and subject to the provisions of paragraph (b) of this subsection (7), a matter shall be considered to be a ballot issue or ballot question for the purpose of determining whether an issue committee has been formally established, thereby necessitating compliance with any disclosure and reporting requirements of this article and article XXVIII of the state constitution, at the earliest of the following:

(I) A title for the matter has been designated and fixed in accordance with law;

(II) The matter has been referred to the voters by the general assembly or the governing body of any political subdivision of the state with authorization to refer matters to the voters;

(III) In the case of a citizen referendum petition, the matter has been submitted for format approval in accordance with law;

(IV) A petition concerning the matter has been circulated and signed by at least one person; except that, where a matter becomes a ballot issue or ballot question upon such signing, any person opposing the matter shall not be considered to be an issue committee for purposes of this article and article XXVIII of the state constitution until one such person

knows or has reason to know of the circulation; or

(V) A signed petition has been submitted to the appropriate officer in accordance with law.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (7), where a matter concerns a municipal annexation brought pursuant to article 12 of title 31, C.R.S., the matter shall not be considered to be a ballot issue or ballot question for the purpose of determining whether an issue committee has been formally established, thereby necessitating compliance with any disclosure and reporting requirements of this article and article XXVIII of the state constitution, unless and until the first notice of the annexation election has been published in accordance with the requirements of section 31-12-112 (6), C.R.S.

### **1-45-108.3. Issue committees - disclaimer**

(1) An issue committee making an expenditure in excess of one thousand dollars on a communication that supports or opposes a statewide ballot issue or ballot question and that is broadcast by television or radio, printed in a newspaper or on a billboard, directly mailed or delivered by hand to personal residences, or otherwise distributed shall disclose, in the communication produced by the expenditure, the name of the issue committee making the expenditure.

(2) (a) The disclaimer required by subsection (1) of this section shall be printed on the communication clearly and legibly in a conspicuous manner.

(b) If the communication is broadcast on radio, the disclaimer shall be spoken at the beginning or end of the communication.

(c) (I) If the communication is broadcast on television, the disclaimer shall be written or spoken at the beginning or end of the communication. If the disclaimer is written, it shall appear for at least four seconds of any communication broadcast on television.

(II) The written disclaimer required by subparagraph (I) of this paragraph (c) shall appear in the communication in a conspicuous manner.

### **1-45-108.5. Political organizations - disclosure**

(1) Any political organization shall report to the appropriate officer in accordance with the requirements of sections 1-45-108 and 1-45-109:

(a) Any contributions it receives, including the name and address of each person who has contributed twenty dollars or more to the political organization in the reporting period, and the occupation and employer of each natural person who has made a contribution of one hundred dollars or more to the political organization; and

(b) Any spending by the political organization that exceeds twenty dollars in any one

reporting period.

(2) No political organization shall accept a contribution, or undertake spending, in currency or coin exceeding one hundred dollars.

(3) Nothing in this section shall be construed to:

(a) Require any political organization to make any additional disclosure pursuant to this section to the extent the political organization is already providing disclosure as a committee or political party in a manner that satisfies the requirements of sections 1-45-108 and 1-45-109; or

(b) Authorize the secretary of state to require disclosure of the name of any natural person that is a member of an entity unless the natural person has made a contribution to a political organization in the amount of twenty dollars or more in a reporting period.

#### **1-45-116. Home rule counties and municipalities**

Any home rule county or municipality may adopt ordinances or charter provisions with respect to its local elections that are more stringent than any of the provisions contained in this act. Any home rule county or municipality which adopts such ordinances or charter provisions shall not be entitled to reimbursement pursuant to subsection 1-45-112 (2). The requirements of article XXVIII of the state constitution and of this article shall not apply to home rule counties or home rule municipalities that have adopted charters, ordinances, or resolutions that address the matters covered by article XXVIII and this article.

"the clear intent of the general assembly to exclude home rule municipality elections from state disclosure requirements when the home rule municipality has adopted its own ordinances regulating campaign practices. In re City of Colo. Springs, 2012 COA 55, 277 P.3d 937."